

It will also provide that in other criminal cases there will be a removal only in accordance with the rules of the court or the General Assembly, and I believe this is adequate and fair and proper. It seems satisfactory to everybody.

THE CHAIRMAN: Is there any further discussion?

Delegate Marion.

DELEGATE MARION: A question of Delegate Kiefer.

THE CHAIRMAN: Do any delegates not have a copy of the amendment?

Delegate Marion.

DELEGATE MARION: My question was directed to Delegate Kiefer.

THE CHAIRMAN: State the question.

DELEGATE MARION: Is my understanding of this amendment correct? This gives the capital cases, either the State or the defendant the automatic right—

THE CHAIRMAN: Gives to whom?

DELEGATE MARION: Either to the State or the defendant an automatic right of removal from the county in which the prosecution is brought.

THE CHAIRMAN: I am not sure I understand what you mean by "automatic right of removal." You mean an absolute right, not a matter of privilege?

DELEGATE MARION: Yes.

THE CHAIRMAN: Delegate Kiefer.

DELEGATE KIEFER: Yes. This already exists now.

THE CHAIRMAN: Delegate Mudd, I have a hazy recollection that there was some provision in the judicial article that a defendant was entitled to be tried in the county where the offense was committed. I may be wrong about it.

DELEGATE MUDD: I do not recollect any. I will check.

THE CHAIRMAN: Very well.

Delegate Mason.

DELEGATE MASON: I have a question for Delegate Kiefer.

THE CHAIRMAN: State the question.

DELEGATE MASON: In reference to the sentence on line 12, where it says "All other criminal cases may be removed only as permitted by the Court of Appeals by

rule or the General Assembly by law," I am wondering whether that "only" precludes removal for a show of prejudice?

THE CHAIRMAN: Delegate Kiefer.

DELEGATE KIEFER: It means what it says, I am afraid. It means that they could be removed only as set out by rule or by law. I would assume that in case of prejudice that this would be valid.

Let me refer you to Delegate Willoner, who is more familiar with the specifics on this matter.

THE CHAIRMAN: Delegate Willoner.

DELEGATE WILLONER: It is unnecessary to provide for that, because that is part of the due process concept in a fair trial.

THE CHAIRMAN: Delegate Mason, do you have another question?

DELEGATE MASON: I wonder whether this is not in conflict with that due process part of the Constitution, by limiting removal only to cases permitted by the rule of the General Assembly?

THE CHAIRMAN: Delegate Willoner.

DELEGATE WILLONER: Well, it is not intended to be in conflict with that. I will put it that way.

THE CHAIRMAN: Delegate Mason.

DELEGATE MASON: I have no further question but it appears confusing.

THE CHAIRMAN: Is there any further questions?

Delegate Mudd, I think what the Chair was thinking of was an earlier draft of some predecessor to section 5 of R&P-1. There was in an earlier draft a provision that the accused was entitled to trial by an impartial jury in the county where the crime was perpetuated. It is not there now.

Delegate Bamberger.

DELEGATE BAMBERGER: Mr. Chairman, I would suggest the question Delegate Mason raised may have some validity, and I would ask the proposers of this amendment if they would agree to omit the last sentence. It is not necessary. The Court of Appeals, under its rule making power, and the General Assembly, under its rule making power for the Courts, would always have that right.

I think we are stating something which is unnecessary in the Constitution, and if